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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,399	04/17/2000	Christopher J. Chase	03493.86913	1414

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EXAMINER

HOM, SHICK C

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

HOKARI ET AL.

Examiner

Art Unit

Shick C Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/17/02 & 6/21/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,4,11-20,23-30,33,36,38-51 and 53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 5-10, 21, 22, 31, 32, 34, 35, 37, 52, 54, 55 is/are allowed.
- 6) ☒ Claim(s) 56-73 and 76-79 is/are rejected.
- 7) ☒ Claim(s) 74 and 75 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 24.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6-17-02 have been fully considered but they are not persuasive.

In page 3 lines 4-26 which argued that the prior art does not teach using a dynamically computed DLCI to switch frame relay data packets to a plurality of destinations is not persuasive because applicant's Fig. 2 which is declared as prior art clearly shows the DLCI being dynamically computed, i.e. coded into the header of the frame relay frame 914 packet for use by the DLCI switch to switch the data packet to a plurality of destinations.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Focsaneanu et al. teach a technique for simplifying delivery of information in a multi-service environments as recited in col. 4 lines 11-38 and Mavraganis et al. teach a technique for reducing cost to user by allowing calls to be set-up when needed as recited in col. 1 lines 10-28.

In response to applicant's argument in page 6 lines 4-14, page 6 line 27 to page 7 line 12 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the virtual private network which allows secure transmission of data between parties over the Internet or other wide area network, the service

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category indicator that indicate the type of network services for which data may be routed, such as the public Internet, a local intranet, live audio/video transmission, etc) are not recited in the rejected claims 69, 56, respectively. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Focsaneanu et al. in col. 2 lines 37-44 which recite the multimedia broadband switch for switching different types of traffic data, i.e. voice, data and video information between terminals over the "Information Superhighway" simultaneously clearly anticipate routing being responsive to the user data as argued in page 8 line 22 to page 10 line 5. Further, col. 2 lines 45-60 which recite providing access to private networks clearly reads on a closed user group as in claim 60 and routing within a virtual private network as in claim 70 and argued in page 9 line 27 to page 10 line 13.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors.

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Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 68, 73, and 76-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mavraganis et al. in view of self-disclosed prior art.

Mavraganis et al. disclose nearly all the subject matter now claimed. Note col. 2 line 57 to col. 3 line 14 which recite a switched access to frame relay whereby each data link connection identifier DLCI corresponding to permanent virtual connection PVC are connected to a plurality of destinations clearly anticipate the method including the step of switching frame relay data packets responsive to a DLCI whereby each DLCI corresponding to a plurality of destinations as in claim 68. Col. 4 lines 59-67 which recite that the calling parties programmed DLCI determine what end point application they will access, i.e., Internet, Campus LAN, etc clearly anticipate the DLCI being based on interactive application information as in claim 73 and said interactive application information corresponds to a network based application as in claim 76, the use of IP address, i.e., layer 3 network address as in claim 77.

Mavraganis et al. did not recite using a dynamically computed DLCI.

The applicant teaches that it is known to use a DLCI which is dynamically computed, i.e. coded into the header of the frame

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relay frame 914 packet for use by the DLCI switch as shown in Fig. 2 in the field of digital and multiplex communications for the purpose of switching the data packet to a plurality of destinations which clearly anticipate the dynamically computed DLCI.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a dynamically computed DLCI as recited by the applicant to the system of Mavraganis et al. because the applicant recite providing the desirable added feature of TCP/IP protocol transport over a frame relay data link layer and said added feature being desirable to achieve more efficient system operation in Mavraganis et al.

5. Claims 69 and 78-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mavraganis et al. as applied to claim 68 above, and further in view of Focsaneanu et al.

Mavraganis et al. did not recite the destinations includes virtual private network as in claim 69, the internal company address as in claim 78, and the internal company address being located within the virtual private network as in claim 79.

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Focsaneun et al. teach that it is known to provide access in network service providers to various other private networks using PSTN as the access as set forth at col. 2 lines 45-61 in the field of digital and multiplex communications for the purpose of providing access to telecommunications networks in multi-service environment having a simpler and more transparent delivery of information on an end-to-end basis which clearly anticipate the virtual private network as in claim 69, the internal company address as in claim 78, and the internal company address being located within the virtual private network as in claim 79.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the virtual private network, the internal company address, and the internal company address being located within the virtual private network as taught by Focsaneun et al. to the system of Mavraganis et al. because Focsaneun et al. teach the desirable advantage of providing simpler and more transparent delivery of information on an end-to-end basis and said simpler delivery of information being desirable to achieve efficient system operation in Mavraganis et al.

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6. Claims 56, 61, and 66-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauser et al. in view of Mavraganis et al.

Hauser et al. disclose nearly all the subject matter now claimed. Note col. 12 line 61 to col. 13 line 4 which recite a distributed switching architecture having means for offering within a quality of service, multiple priority levels with different categories of service, whereby in each quality of service, the highest priority is typically given to connection/network management traffic, as identified by the cell header, the second highest priority is given to low bandwidth, small burst connections, and third highest for bursty traffic clearly anticipate header data comprising service category indicator and switching being responsive to the header data as in claim 56 and the step of discriminating between quality of service categories as in claim 61. Col. 13 lines 56-65 which recite the frame relay setting including Internet traffic clearly anticipate the user data comprising IP address as in claims 65 and 72, the frame relay data packets as in claim 66. Col. 19 lines 64-65 which recite the ATM cells clearly anticipate the ATM data packets as in claim 67.

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Hauser et al. did not recite each service category indicator corresponding to a plurality of destinations as in claim 56.

Mavraganis et al. teach that it is known to provide a switched access to frame relay whereby each data link connection identifier DLCI corresponding to permanent virtual connection PVC are connected to a plurality of destinations as set forth at col. 2 line 57 to col. 3 line 14 in the field of digital and multiplex communications for the purpose of reducing cost to user by allowing calls to be set-up when needed allowing access by many callers in a switched access which clearly anticipate the each service category indicator corresponding to a plurality of destinations as in claim 56.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide correspondence of each service category indicator to a plurality of destinations as taught by Mavraganis et al. to the system of Hauser et al. because Mavraganis et al. teach the desirable advantage of reducing cost to user by allowing calls to be set-up when needed and said reducing cost to user being desirable to achieve more cost efficient system operation in Hauser et al.

7. Claims 57-60, 62-65, and 70-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauser et al. in view of

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Mavraganis et al. as applied to claims 56 and 61 above, and further in view of Focsaneau.

Hauser et al. in view of Mavraganis et al. did not teach the use of a virtual private network responsive to user data as in claims 57-60, 70, 72, the multicast data, voice data, and video data as in claims 62-64, and 71.

Focsaneau et al. teach that it is known to provide access in network service providers to various other private networks using PSTN as the access as set forth at col. 2 lines 45-61 in the field of digital and multiplex communications for the purpose of providing access to telecommunications networks in multi-service environment having a simpler and more transparent delivery of information on an end-to-end basis which clearly anticipate the virtual private network as in claim 58-59. Further, col. 2 lines 37-44 which recite the use of multimedia broadband switched networks for carrying different types of traffic, i.e. voice, data, and video information including the use of broadcasting and multicasting through the circuit switched network and accessing the Internet via the PSTN and whereby the network service providers provide access to various other private networks, academic networks etc., which contain vast numbers of databases for value added services clearly anticipate the service

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category indicator as in claim 56, the virtual private network responsive to user data as in claims 57-60, 70, the multicast data, voice data, and video data as in claims 62-64, and 71.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use frame relay data packets including use of a virtual private network responsive to user data, the multicast data, voice data, and video data as taught in Focsaneanu et al. to the system of Hauser et al. in view of Mavraganis et al. because Focsaneanu et al. teach the desirable advantage of providing a more flexible and adaptable access to telecommunications network in a multi-service environment and said more flexible and adaptable access being desirable to achieve less wasteful of resources and more efficient system operation in Hauser et al. in view of Mavraganis et al.

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Allowable Subject Matter

8. Claims 2, 5-10, 21-22, 31-32, 34-35, 37, 52, and 54-55 are allowed.

9. Claims 74 and 75 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications; please
mark "EXPEDITED PROCEDURE")

Or:

(for informal or draft communications, please
label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal
Park II, 2121 Crystal Drive, Arlington. VA., Sixth
Floor (Receptionist).

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Shick Hom
whose telephone number is (703) 305-4742.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4750.



DOUGLAS OLMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SH

August 24, 2002